

Application Number 09/266,674
Amendment dated April 21, 2004
Responsive to Office Action mailed October 28, 2003

REMARKS

This amendment is responsive to the Office Action dated October 28, 2003. In the Office Action, the Examiner renumbered claims 33-58 as claims 1-36. Applicants have amended claims 1, 2, 6-11, 13, 16, 17, 19-21, 25-29, 31, 34 and 35, canceled claims 5, 14, 15, 23, 32, and added new claims 37-40. Claims 1-4, 6-13, 16-22, 24-31 and 33-40 are now pending.

Preliminary Matter – Consideration of IDS

As a preliminary matter, upon a review of the file, it appears that the Examiner has not yet returned an initialed copy of the 1449 form provided with the Information Disclosure Statement submitted with the Request for Continued Examination (RCE), which was filed August 4, 2003. Another copy of the Information Disclosure Statement filed August 4, 2003 is enclosed for the Examiner's convenience. Applicants respectfully request that the Examiner consider the references cited in the Information Disclosure Statement filed August 4, 2003 and forward an initialed copy of the pertinent 1449 form in the next communication.

Also, with respect to the Information Disclosure Statement submitted May 14, 1999, the Examiner initialed next to the U.S. Patent Documents, but did not initial next to the Other Documents in the form 1449. Applicants respectfully request that the Examiner consider the references cited in the Information Disclosure Statement filed May 14, 1999, initial next to the Other Documents, and forward an initialed copy of the pertinent 1449 form in the next communication.

Objections to the drawings and specification

The Examiner objected to the specification as failing to provide proper antecedent basis for the claim term "fluid reservoir," and objected to the drawings because they do not include reference signs for a fluid reservoir.

Applicants have amended the claims to recite a "tube" rather than a "fluid reservoir." Applicants believe that this Amendment overcomes the Examiner's objections. Support for this amendment can be found in Applicants' specification, e.g., at page 10, lines 7 and 8. In that passage, Applicants' specification makes reference to tube 18, which is labeled in FIG. 1.

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In view of this amendment to Applicants claims, Applicants believe that an amendment to the drawings is not required. Applicants respectfully request reconsideration and withdrawal of the objections to the drawings.

Applicants have also amended the paragraph beginning on page 5, line 2 to fix a typographical error. Applicants respectfully request entry of the amendment to the paragraph beginning on page 5, line 2.

Allowable subject matter

In the Office Action, the Examiner objected to claims 5, 17-18, 23, 35 and 36 as being dependent upon a rejected base claim, but indicated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In response, Applicants have amended independent claim 1 to include the limitations of claim 5 and amended independent claim 19 to include the limitations of claim 23. Applicants have also rewritten claims 17 and 35 to be in independent form. These claims should now be in condition for allowance.

Applicants have also amended various claims to address typographical errors and formalities unrelated to patentability.

New Claims

Applicants have added new claims 37-40. New independent claim 37 is similar to the other pending claims, but requires a hydrophobic vent having a filter made of a hydrophobic porous material. Unlike the other pending independent claims, the specific pore size and/or surface area of the filter is not required in new independent claim 37. Applicants respectfully traverse the previous rejection of claim 4, to the extent the Examiner may consider it applicable to new claim 37.

Neither Kashmer nor Krueger appears to disclose or suggest filters made of hydrophobic porous material. Moreover, none of the applied references provide any disclosure that would have led a person with ordinary skill in the art to incorporate a filter made of hydrophobic porous material into a cerebral drainage system like that shown in Krueger. Applicants respectfully

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submit that Applicants' specification is the only reference of record that describes the advantages of using a filter made of hydrophobic porous material in a cerebral drainage system that includes a tube, an inlet manifold, an outlet manifold, a drainage bag and a stopcock, as claimed. Accordingly, Applicants believe that new claims 37-39 are in condition for allowance.

Conclusion

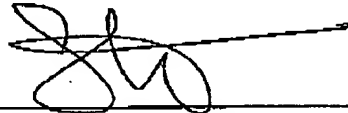
All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

4-21-04

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